

MPEP, § 2143.03 and *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). In view of the foregoing authority, the Applicant respectfully submits that the cited references fail to support the asserted rejection.

The present invention as recited in independent claim 1 relates to a method for wireless communication for non-latency-dependent data. The method comprises receiving data for transmission to a base station, and determining whether the data is appropriate for transmission over a digital control channel. If the data is not appropriate for transmission over a digital control channel, the data is transmitted over a traffic channel.

The invention as recited in independent claim 3 relates to a method for wireless communication for non-latency-dependent data, comprising receiving data for transmission to a base station, and determining whether the data is appropriate for transmission over a digital control channel. If the data is appropriate for transmission over a digital control channel, it is determined whether network conditions are favorable for transmission over a digital control channel. If so, the data is transmitted over the digital control channel to the base station.

Independent claim 9 is an apparatus claim that includes the recitations of claim 3. Independent claim 15 is a claim to a medium storing processor-executable instructions, that also includes the recitations of claim 3.

Independent claim 7 recites a method including receiving data for transmission to a base station, and determining whether the data is appropriate for transmission over a digital control channel. Claim 7 further recites the operation of, if the data is appropriate for transmission over a digital control channel, queuing the received data for transmission. Claim 7 further recites monitoring network conditions for conditions favorable for transmission, and transmitting the data over a digital control channel when network conditions are favorable for transmission.

Independent claim 13 is an apparatus claim that includes the recitations of claim 7. Independent claim 19 is a claim to a medium storing processor-executable instructions, that also includes the recitations of claim 7.

In view of the above, each of the independent claims includes features not taught or suggested in Kumar et al. For example, Kumar et al. does not teach or suggest receiving data for transmission to a base station, and determining whether the data is appropriate for transmission over a digital control channel, as required by each of the independent claims.

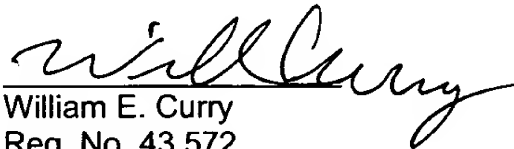
Note is taken of the portion of Kumar et al. (col. 10, lines 27 to col. 12, lines 19 and Figs. 5-7) cited by the Examiner as disclosing the foregoing features. However, based on a review of the cited passage of Kumar et al., the Applicant respectfully disagrees with the Examiner's conclusions. The cited passage relates primarily to a discussion of a "radio link protocol" (RLP) utilized by the invention. The discussion details various aspects of this RLP, including a RLP "data unit size", a RLP data "segment", RLP "control frames" and the like. However, there is no disclosure as to determining whether data is appropriate for transmission over a digital control channel, as called for by each of the independent claims of the present application. Since the Examiner demonstrates a different opinion, however, the Examiner is respectfully requested to explicitly point out those particular elements disclosed in Kumar et al. which are believed to correspond to elements of the rejected claims.

The Applicant maintains that Kumar et al. does not teach or suggest the features recited in the independent claims. Moreover, Fehnel clearly does not remedy the deficiencies in Kumar et al. Accordingly, the independent claims, and consequently the claims dependent thereon, are allowable over Kumar et al. and the combination of Kumar et al. and Fehnel. Therefore, withdrawal of the rejection of claims 1-20 as unpatentable over Kumar et al., or the combination of Kumar et al. and Fehnel, is respectfully requested.

In light of the above discussion, Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4323 to discuss any matter concerning this application. The Office is authorized to charge any fees under 37 C.F.R. 1.16 or 1.17 related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

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